

## **Indiana Regulatory Occupations Evaluation Committee Minutes of the August 24, 2011 Committee Meeting**

### **Call to Order & Establishment of Quorum**

The Regulatory Occupations Evaluation Committee (ROEC) meeting was called to order on Wednesday, August 24<sup>th</sup> in the Government Center South Conference Room A at 9:00 a.m.

Committee members present:

- John Graham, Committee Chair
- Barry Boudreaux
- Gloria Downham
- Frances Kelly
- Dave Miller
- Sally Spiers
- Rita Springer

IPLA staff members present:

- Gale Albright
- Marty Allain
- Lisa Bentley
- Cheryl McCardle

### **Review and Approval of Minutes**

The June 15, 2011 minutes were reviewed and unanimously approved by committee members.

### **Presentation of “Part A” Assessment for State Board of Registration for Professional Engineers John Sauer, Board Chair**

John Sauer, Vice-Chair for the State Board of Registration for Professional Engineers presented a PowerPoint presentation (attached hereto as Exhibit A) to the committee including, but not limited to, the following information:

State Board of Registration for Professional Engineers:

- The board was established in 1935 and consists of 7 members.
- The board regulates licensure for professional engineers, engineers-in-training and professional engineering corporations.

- The board establishes standards for professional practice through rules.
- There are currently 13,583 active registrations for professional engineers and 22,605 for engineers-in-training.
- Consumer complaints are filed through the Office of the Attorney General.

Mr. Sauer pointed out that all fifty (50) states issue some type of license to practice engineering and seventy-five (75) percent of all states require continuing education prior to renewal of engineering licenses. He recapped engineering types for the board which are as follows:

Mechanical Engineering	Design Engineer
Chemical Engineering	Robotics Engineer
Electrical Engineering	Research Engineer
Civil/Structural Engineering	Development Engineer
Nuclear Engineering	Quality Control Engineers
Production Engineer	Environmental Engineers
Process Control Engineer	Aeronautical Engineer

Mr. Sauer cited the following examples of harm that have occurred in the engineering field:

Quebec Bridge	1916	75 deaths
Hyatt Regency Walkway	1981	117 deaths
Teton Dam	1976	11,000 deaths
Silver Bridge Collapse	1967	46 deaths
Sunshine Skyway Bridge	1980	35 deaths
Mianus River Bridge	1983	3 deaths
Minneapolis I-35W Bridge	2007	13 deaths
Chernobyl	1986	15,000 – 30,000 deaths
Mars Orbiter Crash	1999	\$125 million in tax dollars lost

He told the committee that insufficient knowledge and influence on the part of engineers are the number one and two reasons that engineering accidents take place. In an effort to remedy this type of deficiency their board is now requiring thirty hours of continuing education every two-year renewal cycle, and will also begin conducting continuing education audits during 2012.

Committee Member: Where are new engineers trained in Indiana?

Mr. Sauer: There are very good engineering schools such as IUPUI, Purdue, Rose-Hulman, University of Evansville and a few others.

Committee Member: Can you earn any of the experience requirements while in school or does this need to be earned after you graduate?

Mr. Sauer: The internship (experience) starts after an individual graduates while interning under an individual that is fully licensed.

Committee Member: Explain how the continuing education audit will work.

Mr. Sauer: A practicing engineer is responsible for earning and documenting the thirty hours that are required. The board plans to audit up to ten percent of those individuals and ask them to produce the certification from the courses for the continuing education within their specialties.

Committee Member: How will PLA know what an individual's specialty area is?

Mr. Sauer: This will require some self-regulation as well as the board reviewing the courses in terms of what an individual is practicing versus what CE courses he or she is taking.

Committee Member: How do you think this will affect the board if this committee recommends eliminating the license for engineering corporations?

Mr. Sauer: Stated he was uncertain how that would affect the board, but the board has not seen a corporation license in approximately six (6) years.

Committee Member: Since all fifty states require licensing are the licensing requirements comparable?

Mr. Sauer: No, not all requirements are the same.

Committee Member: Is it a requirement that if a company intends to call itself an engineering company it has to be licensed?

Mr. Sauer: Yes

Committee Member: Are those companies required to have an engineer in charge?

Mr. Sauer: Yes and no – some companies do not have engineers in charge but each engineer that works on portions of projects should be signing off on his or her portion.

Marty Allain explained to the committee that to be a professional corporation in the State of Indiana, the company must establish that the directors, officers or at least one shareholder is a licensed individual in that profession. He further stated that they cannot call themselves professional corporations unless they have met the criteria. Companies submit their articles of incorporation to PLA and are then verified that they have structured themselves properly. The Secretary of State will then issue the registration as a professional corporation.

Committee Member: Explain how the four year-program for applying for an engineer's license would work.

Mr. Sauer: The individual will fill out the application, provide references and work history. If there are questions the board will investigate.

Committee Member: Can an individual take the exam right out of Purdue University?

Mr. Sauer: Yes, the rules state that if an individual comes from an ABET accredited engineering program then that individual is eligible as a senior to sit for the Fundamentals Examination that is given in April. However, the experience for that person does not begin until he or she has obtained a degree and the code reads that an individual can only practice in the area of his or her specific expertise. There is also an exclusion written within the code regarding the manufacturing area.

## **Presentation of “Part A” Assessment for Committee of Hearing Aid Dealer Examiners**

### **Allen Reese, Board Member**

Allen Reese, Committee Member of the Committee of Hearing Aid Dealer Examiners introduced Ms. Vicky Fisher and Bruce Campagna, members of the Hearing Aid Alliance. He also introduced Bart Geisler, staff member from the Hearing Aid Alliance. He presented a PowerPoint presentation (attached hereto as Exhibit B) which included the following information:

#### Hearing Aid Dealer Examiners:

- Committee was established in 1967 under the Indiana Department of Health.
- In 1981 the Committee was placed under the Medical Licensing Board.
- In 1991 the General Assembly enacted legislation requiring continuing education.
- All fifty (50) states license Hearing Aid Dealers.
- The five member Committee consists of three registered hearing aid dealers, one otolaryngologist and one consumer member.
- The Office of the Attorney General investigates complaints and prosecutes registrants before the Indiana Medical Licensing Board.
- Currently this board issues two certificates of registration 1) SHAD (Student Hearing Aid Dealer) and 2) HAD (Hearing Aid Dealer).
- The Committee serves as an Administrative Law Judge (ALJ) for consumer complaints.
- All candidates are required to take and pass a written exam developed by the International Hearing Society. It is the committee’s plan that this test will be placed on-line soon so that it can be given more than 4-times a year as it currently is.
- The practical exam is developed and administered by the committee.

Mr. Reese shared some information with the committee regarding the number of license issued since 2007 and how many active registrations there are currently in Indiana. Student Hearing Aid Dealers (SHAD) requirements are that applicants must be a high school graduate and sponsored by a licensed Hearing Aid Dealer.

Mr. Reese showed the committee several types of hearing aids that their licensees work with daily. He explained that the examples of harm are damaged, perforated and infected ear drums as well as a negative financial impact. He also explained that the Hearing Aid Dealer works in direct conjunction with ear, nose & throat doctors as well as audiologists.

There have only been seven (7) consumer complaints filed during 2011 with 57% of those being for professional malpractice. The remaining complaints fall under false advertising and billing disputes.

Committee Member: During a suggested rule change please explain the connection with the Medical Licensing Board.

Mr. Reese: The legislature set us up with the Medical Licensing Board in 1969 to safeguard the hearing impaired so that situations regarding Hearing Aid Dealers are reviewed by medical professionals.

Committee Member: How is the actual examination graded?

Mr. Reese: Each section of the exam is graded on a pass/fail rate. If they fail any of the sections they must retake only the failed section.

Committee Member: Is it true that all training is hands-on under the tutelage of a licensed Hearing Aid Dealer?

Mr. Reese: Yes, and in most other states that is true as well.

Committee Member: Do Student Hearing Aid Dealers find it difficult to find someone to mentor them?

Mr. Reese: Not that he is aware of.

Committee Member: Please explain the percentage of training that focuses on recognition of a sick hear verses a proper fitting.

Mr. Reese: During the manufacturer portion of the training approximately 30% will focus on recognizing sick ears and how to proceed from there.

Committee Member: The legislature is allowing boards involved in products or services, to order discipline and restitution. How do you feel about this?

Mr. Reese: He feels this will benefit consumers.

Mr. Campagna: Stated that the Kentucky Board has the ability to settle these types of complaints as well as reviewing that all the proper paperwork has been filed and provide. Further they can provide mediation between the consumer and dispenser and would like to see the Indiana board follow this example.

Committee Member: Please explain the role of the IPLA Staff in conjunction with your committee.

Mr. Reese: IPLA handles all the mailings, data keeping, establishing dates of the meetings and testing as well as securing rooms and any other paperwork that needs to be filed after the committee meets.

### **Presentation of "Part B" Assessment for State Private Investigators & Security Guard Licensing Board** **Don Johnson, Board Chair**

Don Johnson, Board Chair for the State Private Investigators and Security Guard (PISG) Licensing Board presented a Power Point (attached hereto as Exhibit C) for the committee. Part B explains to the committee whether or not the current system of regulation offers substantial and measurable protection to the citizens of the State of Indiana and does so in a cost effective manner.

Mr. Johnson's review of assessment areas covered the following topics:

- Proactive Surveillance

The PISG board requires individuals to obtain an updated criminal background check and also requires firms and agencies to carry a liability insurance policy of at least \$100,000 in order to maintain licensure.

- Complaint Process

The PISG board believes that the complaint process is often ineffective due to the amount of time that lapses between when a complaint is filed with the Office of the Attorney General to the time it is presented to the board.

- Nature of the Complaint

The majority of complaints are filed on the terms of unprofessional conduct and unlicensed practice. The PISG board feels that a compliance officer would be greatly beneficial in investigating unlicensed practice.

- Effectiveness of Current Regulations

- Evidence the Regulatory System Reduces Consumer Harm

- Appropriate Regulatory Mechanism

- Continuing Education Requirements

Currently the PISG Board does not have any requirements regarding continuing education but believes this could be an effective way to reduce harm to consumers and regulate the competency of the profession.

- Evidence the Regulatory System Affects Supply of Professionals and Price for Service to Consumer

- Adequate Resources

The PISG board believes that the current resources available to them does not allow the board to engage in proactive regulation to reduce consumer harm.

- Fees and Adequate Regulation

The board does not retain any fees from initial licensure or renewals associated with PI or SG professions. All fees are deposited into the state general fund making truly effective regulation of the profession nearly impossible.

Mr. Johnson presented the following recommendations to the committee:

- 1) Require standardized identification cards for employees of private investigator firms and security guard agencies.
- 2) Impose statutory or rule requirements for completion of continuing education hours prior to renewal for both PI firm and SG agency qualifiers.
- 3) Impose statutory requirements for PI firm & SG agency qualifiers to pass an examination prior to license issuance.
- 4) Assess a compliance fee, in addition to current application fees, and retain all disciplinary fines for the purpose of establishing a compliance fund to support a compliance officer.
- 5) Change the criminal justice degree requirement to better prepare future licensees who utilize a bachelor's degree to qualify for licensing.

Dave Miller stated that there have been twenty-seven (27) consumer complaints filed with the OAG's office regarding PISG in the last five (5) years. He told Mr. Johnson that he did not like his presentation's characterization of their office suggesting that they are at fault for unlicensed people running around. He said

that the PISG board now has cease and desist authority and questioned how Mr. Johnson could say that there are significant delays in the OAG's office as well as significant funding issues when his own documentation shows there are not a substantial number of consumers out there pounding on the door of the OAG's office saying they have been defrauded.

Frances Kelly asked about the timeline of those twenty-seven complaints. John Graham requested that Dave Miller's office provide the ROEC Committee with this timeline information. Mr. Miller agreed that he will share with this committee some of that data for them to review.

Mr. Johnson responded that some of the PISG board's concerns are not just the twenty-seven complaints filed, but unlicensed activity that was never filed because people have been previously discouraged with the process. He said he is not stating that consumers are being defrauded in large numbers but that there is unlicensed activity out there with people that are working without a license mostly in the security guard sector. Many of the people that are complaining are fearful of reprisals because more often than not there is an individual within law enforcement running the questionable agency.

Committee Member: Is a compliance officer actually needed?

Mr. Johnson: A compliance officer would have the authority to investigate complaints and establish the merit of the complaints. Currently board members do not have authority or resources to do this around the state.

Committee Member: Please elaborate on the potential harm to the public?

Mr. Johnson: Some potential PI harm examples can be taking money/retainers from consumers, conducting investigation and failing to show up in court as required. Sometimes these unlicensed individuals find themselves in over their head and do not have the experience or training to deal with a certain situations; such as working with computer examinations and messing up the evidence. Another example would be during surveillance getting burned and placing yourself and/or others at risk. A further example can be improper weapon handling, because while it is easy to get a gun permit in Indiana there are no requirements in place for training.

Committee Member: What measurements do you see being in place for compliance officers to make sure that companies are following the law?

Mr. Johnson: Verify that their offices are where they say they are, identify their employees and that they are screened and those employees have identification cards with them at all times while working. Also make sure they have the certificates of insurance in place as required by the law.

Frances Kelly said that in an effort to help clarify the position of the compliance officer for the committee, these individuals are not acting as investigators. They are in place to make sure that individuals working in specific professions are meeting the statutes, rules and regulations required. If they do find violations, depending upon the severity, they turn it over to either law enforcement or file a complaint with the OAG's office. She said these positions were not created to play an adversarial role. They were created for outreach and education. Compliance officers do not have to wait for a complaint to come in, they are out there to do random auditing and spot checking on businesses as standard operating procedure.

Committee Member: Do PI's or SG's have to sit for any type of national exam?

Mr. Johnson: No, nothing at this time.

Committee Member: What is changing in these fields that you feel justify continuing education?

Mr. Johnson: The laws change and as far as guards are concerned it is important to keep your skills sharp and revisit your first responder training. With investigators the laws are always changing, currently in congress there are several bills that are dealing with privacy issues. Some techniques that have been used in the past have now become a criminal offense. It is important that investigators keep up with the laws.

### **Revision of Review Schedule**

#### **SEPTEMBER 21, 2011 – 9am – 3pm**

- State Board of Registration for Professional Engineers – “Part B” presentation
- Review of Part A Ratings & Conclusions
- Findings and Recommendations for Private Investigators & Security Guard Licensing Board
- Findings and Recommendations of the State Board of Registration for Professional Engineers
- Review of Subcommittee Recommendations for State Board of Cosmetology and Barber Examiners
- Review of Subcommittee Recommendations Findings and Recommendations for Indiana State Board of Health Facilities Administrators

#### **OCTOBER 12, 2011 – 9am-3pm**

- Committee of Hearing Aid Dealer Examiners – “Part B” presentation
- Indiana Optometry Board – “Part A” presentation
- Indiana Dietitian Certification Board – “Part A” presentation

#### **NOVEMBER 16, 2011 – 9am-3pm**

- Indiana Optometry Board – “Part B” presentation – *if needed*
- Indiana Dietitian Certification Board – “Part B” presentation – *if needed*
- Findings and Recommendations of Hearing Aid Dealer Examiners
- Findings and Recommendations of Indiana Optometry Board and Indiana Dietitian Certification Board

#### **DECEMBER 7, 2011 – 9am-11am**



- Review of Recommendations for Supplemental Report of Certain License Types Reviewed in 2011 for Health Finance Commission

**JANUARY 25, 2012 – 9am-3pm**

- Physician Assistant Committee – “Part A” presentation
- Real Estate Appraiser Licensure & Certification Board – “Part A” presentation

**FEBRUARY 29, 2012 – 9am-3pm**

- Physician Assistant Committee – “Part B” presentation – *if needed*
- Real Estate Appraiser Licensure & Certification Board – “Part B” presentation – *if needed*
- Findings and Recommendations of the Physician Assistant Committee and the Real Estate Appraiser Licensure & Certification Board

**APRIL 18, 2012 – 9am-3pm**

- Physical Therapy Committee – “Part A” presentation
- Indiana Athletic Trainers Board – “Part A” presentation
- Discussion of contents of draft for report to HEALTH FINANCE COMMISSION based on review to date

**MAY 23, 2012 – 9am-3pm**

- Physical Therapy Committee – “Part B” presentation – *if needed*
- Indiana Athletic Trainers Board – “Part B” presentation – *if needed*
- Findings and Recommendations of the Physical Therapy Committee and the Indiana Athletic Trainers Board

**JUNE 20, 2012 – 9am – 2pm**

- Finalize Report to HEALTH FINANCE COMMISSION (due not later than 7/1/2012)

**Adjournment**

Chairperson Graham adjourned the meeting at approximately 1:35 p.m.

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Dean John Graham, Chair  
Indiana Regulatory Occupations Evaluation Committee

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Date

**Next Scheduled Meeting:**

September 21, 2011

9:00 a.m.

Indiana Government Center South

Room W064 of the Indiana Professional Licensing Agency